FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Zoning Commissioner as a Petition for Variance for that property located at 4 William Court in the Morgan Manor South subdivision near Sparks in Baltimore County. The Petition is filed by Robert E. Ryan and Marianne H. Gillette, his wife, property owners. Relief is sought from Section 1A04.3.3 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit a building side yard setback of 25 ft., in lieu of the required 50 ft., and to amend the First Amended Final Development Plan of Morgan Manor, Section 2.

Appearing at the public hearing held for this case was Robert E.

Ryan, Petitioner. Also present was John G. Leonard, Jr. of the Greater

Sparks-Glencoe Community Council.

Mr. Ryan testified that he is the owner of the property and offered the plat to accompany the Petition. This plat is marked as Petitioners' Exhibit No. 1 and shows that the property is 1.4225 acres in size and zoned R.C.5. Mr. Ryan testified that the lot is part of the Morgan Manor South subdivision, a residential community of approximately 18 lots. Mr. Ryan stated that approximately 3 lots of the subdivision remain undeveloped at this time. As to the subject property, it is a triangularly shaped lot served by a panhandle driveway. Mr. Ryan stated that the covenants for the community association require that all homes be at least

2400 square feet in area and have, at least, a two car garage. In order to comply with these covenants, Mr. Ryan proposes building a substantially sized 3,000 sq. ft. area house with a three car garage. He noted that the septic area serving the property is to the western (rear yard) part of the lot and the well, which has already been drilled, is on the eastern (front yard) side. Because of the location of these utilities, the building area for the proposed dwelling is limited. In order to maintain a properly sized development, the Petitioner indicated that he must construct the dwelling partially outside of the previously approved building envelope and can, therefore, only maintain a 25 ft. side yard setback, in lieu of the required 50 ft. setback.

Mr. Leonard, Zoning Committee Chairman of Greater Sparks-Glencoe Community Council offered a letter in opposition to the Petition. Reading of the letter discloses that the community council is not so much in opposition to this particular case as much as an expression of their displeasure of the development of this subdivision as a whole. Particularly, it is emphasized by the community council that the variances are necessary because of poorly planned rural residential development which results in unusually configured lots. These lots then require variances such as the subject case in order for a house to be constructed. Mr. Leonard also noted that he believes that other cases will come before this office and need variances due to this poorly planned community; an assertion with which Mr. Ryan disagreed. He noted that but for 3 lots, the subdivision is completed.

RECEIVED FOR FILING

Section 307.1 of the Baltimore County Zoning Regulations (B.C.Z.R.) states that the Baltimore County Zoning Commissioner shall have the power to create variances from an area regulation where strict compliance with

the zoning regulations for Baltimore County would result in practical difficulty or unreasonable hardship.

In reviewing the Petition, it must be kept in mind that "{t}he standard for granting a variance. . . is . . . whether strict compliance with the regulations would result in 'practical difficulty or unreasonable hardship'; and that it should be granted only if in strict harmony with the spirit and intent of the zoning regulations; and only in such manner as to grant relief without substantial injury to the public health, safety and general welfare." McLean v. Soley, 270 Md. 208 (1973).

In the subject case, I am persuaded that the variance should be granted. Although appreciative of the concerns from the community association, I believe that it would be manifestly unjust to deny this Petitioner the variance requested. The concerns set forth within the community's letter, although well founded, are more appropriate issues within the development process. Moreover, consideration of the subject Petition must be limited to this specific property. In my view, granting of the variance will not be contrary to the spirit of the B.C.Z.R. and will not result in any injury to the public good. Furthermore, the location of the septic field and well, as well as the configuration of the lot constitute special conditions unique to this lot which justify the granting of the variance. Further, the granting of the variance will be in strict harmony with the spirit and intent of the B.C.Z.R.

Pursuant to the advertisement, posting of the property, and public hearing on this Petition held, and for the reasons given above, the relief requested should be granted.

THEREFORE, IT IS ORDERED by the Zoning Commissioner for Baltimore County this day of January, 1993 that a variance from Section

~3-

Baltimore County Government Zoning Commissioner Office of Planning and Zoning

Suite 113 Courthouse 400 Washington Avenue Towson, MD 21204

(410) 887-4386

January 19, 1993

Mr. Robert E. Ryan Ms. Marianne H. Gillette 6712 Glenkirk Road Baltimore, Maryland 21239

RE: Case No. 93-190-A
Petition for Variance
4 William Court

Dear Mr. Ryan and Ms. Gillette:

Enclosed please find the decision rendered in the above captioned case. The Petition for Variance has been granted, with restrictions, in accordance with the attached Order.

In the event the decision rendered is unfavorable to any party, please be advised that any party may file an appeal within thirty (30) days of the date of the Order to the County Board of Appeals. If you require additional information concerning filing an appeal, please feel free to contact our Appeals Clerk at 887-3391.

Very truly yours,

Lawrence E. Schmidt
Zoning Commissioner

LES:mmn att.

cc: Mr. John G. Leonard Jr.
Greater Sparks-Glencoe Community Council

Petition for Variance to the Zoning Commission of the Zoning Commission to the Zoning Commissioner of Baltimore County for the property located at

4 William Court. Morgan Manor South
which is presently zoned

RC-5 This Petition shall be filed with the Office of Zoning Administration & Development Management.

The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Variance from Section(s) Sec. 1A04.3.3 To permit a building side ward setback of 25° in lieu of the required 50° and to amend the lst amended F.D.P. of Morgan Manor, Sec. 2. of the Zoning Regulations of Baltimore County, to the Zoning Law of Baltimore County; for the following reasons: (indicate hardship or practical difficulty) SEE ATTACHED PRACTICAL DIFFICULTY Property is to be posted and advertised as prescribed by Zoning Regulations. I, or we, agree to pay expenses of above Variance advertising, posting, etc., upon filing of this petition, and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law for Baltimore County. (We do solemnly declare and affirm, under the penalties of perjury, that (we are the legal owner(s) of the property which is the subject of this Petition. Manana H Gilett 6712 CLENKIRK ROAD

93-190-17

Because the well is already in place and the east property line at the common criveway, that means the septic system be located down hill or at the west end of the property, which limits just where the house may go. The house must be at least 2,400 sq.ft. without a garage. We want to build a 3,000 sq.ft. house with a three car garage. In order to get the garage, we must have an additional 24 feet to build, regardless of how the house will be placed on the lot. The property is very rocky on the north boundary near the property line. Because of this the house site may have to be moved back 10 - 15 feet from the north boundary line.

Sect. 1A04.3.3 - To permit a building side yard set back 25 feet in lieu of the required 50 feet and to amend the 1st amended F.D.P. of Morgan manor - Sect. 2

1A04.3.3 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit a building side yard setback of 25 ft., in lieu of the required 50 ft.; and to amend the First Amended Final Development Plan of Morgan Manor, Section 2, be and is hereby GRANTED, subject, however, to the following restriction which are conditions precedent to the relief granted herein:

1. The Petitioners may apply for their building permit and be granted same upon receipt of this Order; however, Petitioners are hereby made aware that proceeding at this time is at their own risk until such time as the 30 day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, the Petitioners would be required to return, and be responsible for returning, said property to its original condition.

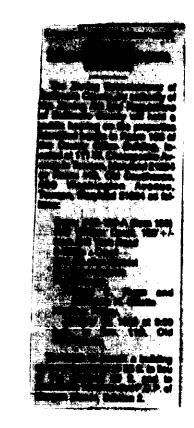
Zoning Commissioner

for Baltimore County

LES/mmn

CERTIFICATE OF POSTING
2011110 DEPARTMENT OF BALTIMORE COUNTY

Towner, Maryland	
Posted for: VETIZALO	Date of Posting 13/19/92
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3

CERTIFICATE OF PUBLICATION

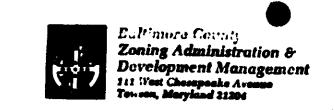
TOWSON, MD., 1992

THIS IS TO CERTIFY, that the annexed advertisement was published in THE JEFFERSONIAN, a weekly newspaper published in Towson, Baltimore County, Md., once in each of _____ successive weeks, the first publication appearing on _____ 12 31 1992

THE JEFFERSONIAN,

5. Zefe On Publisher

\$ 308.14



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Cashler Validation

Zoning Administration & Development Management 111 Vest Chesopeuke Avenue Lorson, Maryland 21204

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Cashler Validation

Towson, MD 21204

Baltimore County Government Office of Zoning Administration and Development Management

111 West Chesapeake Avenue

(410) 887-3353

to the second se

Your petition has been received and accepted for filing this

7th day of December 1992.

Petitioner: Robert E. Ryan, et al Petitioner's Attorney:

Printed on Recycled Paper

Baltimore County Government Office of Zoning Administration and Development Management

111 West Chesapeake Avenue Towson, MD -21204

DATE: /. 6 . 93

Baltimore, Maryland 21239

Dear Petitioner(s):

(410) 887-3353

Robert E. Ryan and Marianne H. Gillette 6712 Glenkirk Road

CASE NUMBER: 93-190-A (Item 199) M/S William Court, 130'+/- from E/S York Road 4 William Court 2nd Election District - 3rd Councilmenic Petitioner(s): Robert E. Ryan and Marianne H. Gillette HEARING: FRIDAY, JANUARY 15, 1993 at 9:00 a.m. in Rm. 118, Old Courthouse.

Please be advised that \$ 74.85 is due for advertising and posting of the above captioned

THIS FEE MUST BE PAID AND THE ZONING SIGN & POST SET(S) RETURNED ON THE DAY OF THE HEARING OR THE ORDER SHALL NOT ISSUE. DO NOT REMOVE THE SIGN & POST SET(S) FROM THE PROPERTY UNTIL THE DAY OF THE HEARING.

Please forward your check via return sail to the Zoning Office, County Office Building, 111 W. Chesapeake Avenue, Room 109, Towson, Maryland 21204. Place the case number on the check and make same payable to Beltimore County, Maryland. In order to avoid delay of the issuance of proper credit and/or your Order, immediate attention to this matter is suggested.

DED DEPRM RP STP TE

Pickersgill, Inc.

Development Review Committee Response Form 01/04/93 Authorized signature Dermis A. Kennely Date 1/4/93 File Number Waiver Number Zoning Issue Meeting Date Robert E. Ryan and Marianne H. Gillette 12-21-92 DED DEPRM RP STP Baker Land Company 5. 如果我们在我们的时间,我们也可以有一个,我们就是一个,我们也可以有一个,我们也不会会的,我们也不会会的。 Kenneth E. and Carol C. Lentz DED DEPRM RP STP Aubrey N. and Ruth N. Freeman COUNT 4 Charles A. Wagandt 12-28-92 Command 503 Walter Dempsey Lee and Carolyn Shaw DED DPERM RP STP TE Thomas Booth, Louis and Elmer Morsberger Michael J. and Bonnie Conner NC Wyaness Associates Limited Partnership James G. and Pamela J. Miller Sarkis G. and Susan T. Aghazarian

212

Baltimore County Government Office of Zoning Administration and Development Management

111 West Chesapeake Avenue

Towson, MD -21204

(410) 887-3353

NOTICE OF HEARING

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County will hold a public hearing on the property identified herein in Room 106 of the County Office Building, 111 W. Chesapeake Avenue in Townon, Haryland 21204

Room 118, Old Courthouse, 400 Washington Avenue, Towson, Maryland 21204 as follows

CASE NUMBER: 93-190-A (Item 199) N/S William Court, 130'+/- from E/S York Road けWilliam Court 2nd Election District - 3rd Councilmanic Petitioner(s): Robert E. Ryan and Marianne H. Gillette HEARING: FRIDAY, JANUARY 15, 1993 at 9:00 a.m. in Rm. 118, Old Courthouse.

Variance to permit a building side yard setback of 25 ft. in lieu of the required 50 ft. and to amend the 1st amended F.D.P. of Morgan Manor, Section 2.

cc: Robert E. Ryan and Marianne H. Gillette

MOTE: HEARINGS ARE HANDICAPPED ACCESSIBLE: FOR SPECIAL ACCOMPODATIONS PLEASE CALL 887-3353.

DPW/Traffic Engineering 12/28/92 Development Review Committee Response Form Date 12/29/92 Project Name File Number Zoning Issue Meeting Date Nancy E. and David M. Paige 12-14-92 COUNT 1 Robert E. Ryan and Marianne H. Gillette DED DEPRM RP STP TE Baker Land Company DED DEPRM RP STP TE Kenneth E. and Carol C. Lentz DED DEPRM RP STP TE Aubrey N. and Ruth N. Freeman COUNT 4 Stonegate at Patapsco (Azreal Property) 20N DED TE (Waiting for developer to submit plans first) COUNT 1

COUNT 6 * * * END OF REPORT * * *

Rec'd 1/4/92

Baltimore County Government Office of Zoning Administration and Development Management

111 West Chesapeake Avenue Towson, MD 21204



December 31, 1992

(410) 887-3353

Mr. Robert E. Ryan Ms. Marianne H. Gillette 6712 Glenkirk Road Baltimore, MD 21239

> RE: Case No. 93-190-A, Item No. 199 Petitioner: Robert E. Ryan, et al Petition for Variance

Dear Mr. Ryan and Ms. Gillette:

The Zoning Plans Advisory Committee (ZAC) has reviewed the plans submitted with the above referenced petition. The attached comments from each reviewing agency are not intended to indicate the appropriateness of the zoning action requested, but to assure that all parties, i.e. Zoning Commissioner, attorney and/or the petitioner, are made aware of plans or problems with regard to the proposed improvements that may have a bearing on this case.

Enclosed are all comments submitted thus far from the members of ZAC that offer or request information on your petition. If additional comments are received from other members of ZAC, I will forward them to you. Otherwise, any comment that is not informative will be placed in the hearing file. This petition was accepted for filing on the date of the enclosed filing certificate and a hearing scheduled accordingly.

The following comments are related only to the filing of future zoning petitions and are aimed at expediting the petition filing process with this office.

1) The Director of Zoning Administration and Development Management has instituted a system whereby seasoned zoning attorneys who feel that they are capable of filing petitions that comply with all aspects of the zoning regulations and petitions filing requirements can file their petitions with this office without the necessity of a preliminary review by Zoning personnel.

93-100-A 1-15-93

BALTIMORE COUNTY, MARYLAND INTER-OFFICE CORRESPONDENCE

Arnold Jablon, Director DATE: December 22, 1992 Zoning Administration and

Pat Keller, Deputy Director Office of Planning and Zoning

Development Management

Petitions from Zoning Advisory Committee (December 21, 1992)

The Office of Planning and Zoning has no comments on the following petitions:

Shirley and Ronda Swab, Item No. 190 Robert and Marianne Gillette, Item No. 199 Baker Land Company, Item No. 200 Kenneth and Carol Lenty, Item No. 201 Aubrey and Ruth Freeman, Item No. 202 James and Josephine Hartman, Item No. 206

If there should be any further questions or if this office can provide additional information, please contact Francis Morsey in the Office of Planning at 887-3211.

Division Chief:

PK/FM: rdn

Rec'd 1/4/93



O. James Lighthizer Hal Kassoff

Baltimore County
Item No.: \$ 199 (RT) ROBERTE, RYAM & MARIMUNE H. GILLETTE 1

Dear Ms. Winiarski:

Ms. Julie Winiarski

County Office Building

Zoning Administration and

111 W. Chesapeake Avenue

Towson, Maryland 21204

This office has reviewed the referenced item and we have no objection to approval as it does not access a State roadway and is not effected by any State Highway Administration

Please contact Bob Small at 410-333-1350 if you have any questions.

Thank you for the opportunity to review this item.

Engineering Access Permits

My telephone number is 410-333-1350

Teletypewriter for Impaired Hearing or Speech
383-7555 Baitimore Metro - 565-0451 D.C. Metro - 1-800-492-5062 Statewide Toll Free
707 North Calvert St., Baitimore, Maryland 21203-0717

93-190-A 1/15/94

Arnold Jablon

Director

Baltimore County Government Fire Department

700 East Joppa Road Suite 901 Towson, MD 21286-5500

DECEMBER 28, 1992

(410) 887-4500

Zoning Administration and Development Management

Baltimore County Office Building Towson, MD 21204

RE: Property Owner: ROBERT E. RYAN AND MARIANNE H. GILLETTE Location: #3 WILLIAM COURT

> 199(RT) Zoning Agenda: DECEMBER 21, 1992

Gentlemen:

Item No.:

Pursuant to your request, the referenced property has been surveyed by this Bureau and the comments below are applicable and required to be corrected or incorporated into the final plans for the property.

7. The Fire Prevention Bureau has no comments at this time.

Noted and Approved _ Planning Group Fire Prevention Bureau Special Inspection Division

JP/KEK

Rec1d 1/5/93

GREATER SPARKS-GLENCOE COMMUNITY COUNCIL Post Office Box 396 Sparks, Maryland 21152

January 15, 1993

Lawrence E. Schmidt Zoning Commissioner Office of Planning & Zoning Towson, Maryland 21204

RE: 93-190-A (Item 199)

I would like to start this letter by stating that the Greater Sparks Glencoe Community Council (GSGCC) has not made it a practice to become involved with, or to make comment on, setback variance requests. These issues are normally associated with community members making home improvements, and any problems are usually those which need to be resolved between neighbors. I make this point in order to contrast why this case is different and is of great concern to the community.

This variance request was recently brought to my attention because it is the second such request from properties in Morgan Manor within the past month. Case No. 93-159-A approved a setback variance in this development on December 21, 1992. We believe that these requests are purely the result of the extremely poor rural residential design practice which is inherent in the layout of lots in Morgan Manor. Requests of this type will continue to occur in Morgan Manor (and similar poor quality rural development) because the property owners are being forced to counteract this type of development practice. This type of design practice is performed in order to obtain maximum buildable densities for the developer at the expense of development quality and community impact.

The petitioners in this case (Robert E. Ryan and Marianne H. Gillette) have stated that they must have the setback variance in order to build the type of house that they have chosen. This house is 3,000 sq. ft. with a three car garage. According to the petitioners, this house can not be located within the allowable

building area due to well and septic locations and natural property features. The real problem they are dealing with is the fact that the layout of the lot is not conducive to accepting a home size which is very common in RC-5 developments. Houses much larger than the one proposed exist on many lots in the area surrounding Morgan Manor. The reason that these homes did not require setback variances, even though some had much more severe site constraints, is that their lots were properly designed. Many lots in Morgan Manor are unacceptable for the type of development for which it was intended and have/will require various corrective measures. Setback variances and poor home siting are examples of what has already occurred.

In essence, the problem is one of choosing the wrong lot and/or development for a desired house. GSGCC firmly believes that variances of this type are not acceptable as a means to correct for or accommodate poor rural residential development practice. We are convinced that the continued granting of this type of setback variance will only serve to encourage future poor development practices because it provides a means for developers to obtain adequate buildable areas contrary to natural site constraints. These issues should be addressed and resolved during the development design, review and approval process and not in this fashion. The answer to these problems is quality design and not setback variances.

Based on the reasons stated above, GSGCC is opposed to the proposed setback variance. We regret that the property owners are being put in this position due to poor development practices, but we believe that the variance is one of convenience and not necessity, and benefits one while potentially having negative impacts and consequences for many. Therefore, GSGCC requests that the proposed variance be denied.

Very truly yours,

JOHN G. LEONARD, JR.

Zoning Committee Chairman

